

Serial #: 10/033,190  
Reference #: EP01-002C

### AMENDMENTS TO THE CLAIMS

Please amend the claims to read as follows:

1. (Currently amended) An isolated polynucleotide comprising a nucleic acid sequence which encodes or is complementary to a sequence which encodes an Anthocyanin 1 (*ANT1*) polypeptide having at least ~~70~~ 95% sequence identity to the amino acid sequence presented as SEQ ID NO:2.

2. (Currently amended) The polynucleotide of Claim 1 comprising a nucleic acid sequence that hybridizes under high stringency conditions, ~~at about 5-10° below the T<sub>m</sub>~~ to the nucleic acid sequence presented as SEQ ID NO:1, or the complement or a fragment thereof, wherein said high stringency conditions comprise hybridization at about 42°C in 50% formamide, 5X SSC, 5X Denhardt's solution, 0.5% SDS and 100 µ/ml followed by a washing in 2X SSC and 0.5% SDS at about room temperature and a washing in 0.1X SSC and 0.5% SDS at about 42°C.

3. (Cancel) The polynucleotide of Claim 1 wherein the *ANT1* polypeptide has at least 80% sequence identity to the amino acid sequence presented as SEQ ID NO:2.

4. (Cancel) The polynucleotide of Claim 1 wherein the *ANT1* polypeptide has at least 90% sequence identity to the amino acid sequence presented as SEQ ID NO:2.

5. (Original) The polynucleotide of Claim 1 wherein the *ANT1* polypeptide has the amino acid sequence presented as SEQ ID NO:2.

6. (Original) The polynucleotide of Claim 1 comprising the nucleic acid sequence presented as SEQ ID NO:1, or the complement thereof.

7. (Original) A plant transformation vector comprising an isolated polynucleotide of Claim 1.

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8. (Original) A transgenic plant cell comprising the vector of Claim 7.
9. (Original) A method of producing an *ANTI* phenotype in a plant, said method comprising introducing into progenitor cells of the plant a plant transformation vector according to claim 7 and growing the transformed progenitor cells to produce a transgenic plant, wherein said polynucleotide sequence is expressed and said transgenic plant exhibits an *ANTI* phenotype.
10. (Original) A plant obtained by a method of Claim 9.
11. (Original) A plant part obtained from a plant according to Claim 10.
12. (Original) A method of selecting a transformed plant comprising a first polynucleotide comprising the steps of:
  - (a) introducing into progenitor cells of the plant a plant transformation vector comprising the first polynucleotide and an *ANTI* polynucleotide according to Claim 1, and
  - (b) growing the progenitor cells to produce a plant that displays the *ANTI* phenotype, wherein the plant that displays the *ANTI* phenotype is selected as a transformed plant that also comprises the first polynucleotide.
13. (Cancel) An isolated nucleic acid sequence encoding an *ANTI* polypeptide having at least 70% sequence identity to the amino acid sequence presented as SEQ ID NO:2.
14. (Cancel) An isolated nucleic acid sequence, wherein the nucleic acid sequence has at least 70% sequence identity to the nucleic acid sequence presented as SEQ ID NO:1.

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### RESPONSE

#### **AMENDMENTS**

Claim 1 has been amended to further clarify the claimed invention, as suggested by the Examiner.

Claim 2 has been amended to further clarify the claimed invention, as discussed below. Support for the high stringency conditions is provided in the specification starting on page 5, paragraph 0028, line 5.

Claims 13 and 14 have been canceled.

Therefore, the amendments to the claims do not introduce new matter.

#### **Claim Rejections**

##### Rejections under 35 U.S.C. §112, second paragraph

In paragraph 7 of the final Office Action, Claim 2 was rejected under 35 USC 112, second paragraph. Claim 2 has been amended to include a more finite meaning for "high stringency conditions" and, as such, the rejection is overcome. The specification provides a description (page 6, paragraph 0028, line 5) of the meaning of "high stringency conditions". Therefore, the use of the term "high stringency conditions" meets the requirements of 35 USC 112, second paragraph.

##### Rejections under 35 U.S.C. §112, first paragraph

In paragraph 8 of the final Office Action, Claims 1-4 and 7-12 were rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking written description. In paragraph 9 of the final Office Action, Claims 1-4 and 7-12 were rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enablement.

Claim 1 has been amended to recite "[a]n isolated polynucleotide comprising a nucleic acid sequence which encodes or is complementary to a sequence which encodes an Anthocyanin 1 (ANT1) polypeptide having at least 95% sequence identity to the amino acid sequence presented as SEQ ID NO:2", as suggested by the Examiner.

Claims 13 and 14 have been cancelled.